UNITED
NATIONS

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General Assembly Security Council

Distr.
GENERAL

A/46/278
S/22745
28 June 1991

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-sixth session
Item 60 (b) of the preliminary list*
GENERAL AND COMPLETE DISARMAMENT:
INTERNATIONAL ARMS TRANSFERS

SECURITY COUNCIL
Forty-sixth year

Letter dated 28 June 1991 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a note concerning the legal constraints and political guidelines of the Italian arms exports policy (see annex).

I shall be grateful if you would kindly circulate this letter and its annex as an official document of the General Assembly, under item 60 (b) of the preliminary list, and of the Security Council.

(Signed) Vieri TRAXLER
Ambassador

* A/46/50.

ANNEX

Italian arms exports: legal constraints and political guidelines

In its arms export policy, Italy abides by the principle enshrined in article 11 of its Constitution: "Italy rejects war as an instrument of offence against the freedom of other peoples and as a means of solving international disputes".

In 1990 the national system monitoring armaments exports was reviewed by Parliament. Law No. 185 of 9 July 1990 established a new and complex political-administrative control system on the exports, imports and transit of armament matériel, including dual-use equipment mainly employed for military purposes, as specified in a list, whose main categories are indicated in article 2 of the law.

A general prohibition applies to the production and export of chemical, biological and nuclear weapons and related technology.

The law establishes the following main export criteria: coherence with international commitments (United Nations, European Community, North Atlantic Treaty Organization); fight against terrorism; maintenance of friendly relations with other countries; repression of illicit arms trade. More specifically, law No. 185/90 explicitly prohibits the sale of arms to countries engaged in armed conflicts not consistent with Article 51 of the Charter of the United Nations; in the case of embargoes against countries that are recognized to be responsible of violating international Conventions on human rights; or countries recipient of Italian development aid that allocate to their defence budgets resources beyond their defence needs.

An Interministerial Committee presided over by the Prime Minister is the highest body administering export licences, while the main responsibility rests with the Minister for Foreign Affairs.

In August 1990, the Interministerial Committee issued the political guidelines for the application of the law. In particular, in addition to the explicit legal constraints, appropriate caution should be exercised wnen licensing arms exports in cases of external or internal tensions which could lead to regional instabilities and threaten peace. Indications were given on how to interpret the above-mentioned legal constraints.

Controls: all producers of armament matériel must register with the Ministry of Defence.

Before negotiating foreign contracts, exporters must apply for authorization to the Ministries of Foreign Affairs and of Defence, indicating precisely the object and parties to the contract.

Conditions for the authorization of the final export include coherence with the negotiation proposals previously authorized, submission of the relevant contract, end-user certificate reliability.

Completion of export operations must be proven to the Ministry of Foreign Affairs.

Relevant financial transactions are controlled by the Ministry of Treasury. Customs controls are the responsibility of the Finance Ministry.

Criminal sanctions: for false statements/indications; unauthorized exports to other recipients; imprisonment terms can reach 12 years, and the financial sanctions 30 per cent of the value or 500 million lire.